
(2001) 08 CAL CK 0038

In the Calcutta High Court

Case No : Matter No. 3014 of 1992 6 August 2001

CWT

APPELLANT

Vs

V.P. SAMTANI

RESPONDENT

Date of Decision : 06-08-2001

Acts Referred:

Wealth Tax Act, 1957 — Section 27(3)

Citation : (2002) 172 CTR 443 : (2002) 125 TAXMAN 909

Hon'ble Judges : Y.R. Meena, J;Arun Kumar Mitra, J

Bench : Full Bench

Advocate : S.K. Mitra with S.K. Mukherjee, for the Revenue A.K Roy Chowdhury, for the Assessee, for the Appellant;

Judgement

By the court

On an application u/s 27(3) of the Wealth Tax Act, 1957, the Tribunal was directed to refer the following question set out at page 2 and 3 of the paper book.

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that for valuation of house property at 38, Chowringhee Road, Calcutta let out for commercial purpose, the net rental should be multiplied by 9 times ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the directions of Deputy Commissioner (Appeals) to value the property at 69, Ganesh Chandra Avenue, Calcutta on rent capitalization method when the assessee himself has admitted the figure at Rs. 1,91,338 for several earlier years ?"

In compliance of our direction the aforesaid questions are referred with the statement of case for our opinion.

2. The assessee is an individual and the relevant assessment year is 1984-85 for which valuation date was 31-3-1984. The assessment was made on 25-1-1984

(sic). The assessee has 13.3 per cent share in the house property of Himalaya House at 38, Chowringhee Road, Calcutta. The assessing officer has determined the value of the aforesaid share applying a multiple of 11 times of rental value.

The gross value of the property comes to Rs. 6,44,171 and deducting 10 per cent for joint ownership the net value of the property has been taken Rs. 5,79,754. The assessee has also 1/6th share in the house property at 69, Ganesh Chandra Avenue, Calcutta and the assessing officer took the value of the assessee's share in the said property as in the last year at Rs. 1,91,338.

In appeal before the Deputy Commissioner (Appeals) has directed the assessing officer to apply the multiple of 9 to the net rent which was considered to be reasonable for the property at Chowringhee Road. So far as the property at 69, Ganesh Chandra Avenue, Calcutta is concerned, the Deputy Commissioner (Appeals) has directed the assessing officer to take the value on rent capitalization method and further allowed the deduction of 10 per cent for joint ownership.

In appeal before the Tribunal the Tribunal has confirmed the view taken by the Deputy Commissioner (Appeals) that multiple 9 times should be adopted for the property at Chowringhee Road and he further directed to apply the rent capitalisation method for the property at 69, Ganesh Chandra Avenue, Calcutta.

3. Heard the learned counsel for the parties.

The learned counsel for the revenue, Mr. Mitra submits that though in the earlier years the property at Chowringhee Road was valued multiplying by 9 times to the net rent, so far as the property at Ganesh Chandra Avenue is concerned the assessee has himself valued as per rule 1BB and disclosed the value of that property at Rs. 1,91,338. Last year that was accepted. This year also the assessing officer has taken the same value.

4. Mr. Roychowdhury submits that though the assessee has disclosed the property valued as per rule 1BB, but when the rent capitalized method has been adopted for the property at Chowringhee Road, the same method should be applied in case of house property at Ganesh Chandra Avenue.

5. So far as the property at 38, Chowringhee Road, Calcutta is concerned, that is admittedly a property for commercial purpose and normal method of valuing of such property should be rent capitalization method. In the earlier year also 9 times multiple was adopted by valuing the property at Chowringhee Road, Calcutta.

6. We do not find any infirmity in the order of the Tribunal so far as the value of the property at Chowringhee Road, Calcutta is concerned by applying rent capitalization method by multiplying the rent by 9. So far as the property at 69, Ganesh Chandra Avenue, Calcutta is concerned, that is residential property. Residential property should be valued as per rule 1BB. Not only that the assessee has shown the property as rule 1BB and also he has also furnished the valuation

report. The valuation report is dated 31-12-1977. When the property was valued even in 1977 and valued at Rs. 1,91,338 there is no justification to take the lesser value after 20 (sic) years, that is in the year 1984-85.

In the result, we answer the question No. 1 in the affirmative, that is in favour of the assessee and against the revenue. Question No. 2 we answer in negative that is in favour of the revenue and against the assessee. The value of the property should be valued at Rs. 1,91,338.

The reference so made stands disposed of accordingly.